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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,738	12/31/2003	John M. Rice	RiceWedge	1837
27119	7590	05/17/2006	EXAMINER	
ALBERT W. WATKINS 30844 NE 1ST AVENUE ST. JOSEPH, MN 56374			FUQUA, SHAWNTINA T	
			ART UNIT	PAPER NUMBER

3742

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,738	RICE, JOHN M.	
	Examiner	Art Unit	
	Shawntina T. Fuqua	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration by a pre-appeal panel of Examiners has been granted and as a result of the conference the finality of the rejection of the last Office action is not persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 6-8, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Box (US5073699).

Box discloses a combination beverage pot and warming surface having a beverage pot (18) for retaining liquid therein and a base (12), and a warming surface (20) is a heat source which couples with pot for maintaining liquid at an elevated temperature (Figure 1), a metal (column 5, lines 11-14) spacer/means to tilt (30, 40, 42) between the pot and the warming surface to elevate a majority of pot above base (Figure 4), spacer/means to tilt (30) is a wedge (40, 42) defined by decreasing thickness (Figures 2-3), spacers are placed on warming surface so that they are offset with respect with the center (Figures 2, 5, 7, 8), and pot can be selectively removed from warming surface and spacer (Figures 4-5). While Box does not explicitly state that the spacer is a means to tilt the pot so that a minority of the pot base is in direct contact with the warming base and a second minority is on the warming surface to form an air blanket

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therebetween, and wherein point of contact between pot and warming base is where a retained liquid in pot is pooled to a maximum. It is inherent that Box's spacer is capable of meeting the above mentioned criteria simply by placing the pot on the spacers in a tilted manner i.e. one edge of pot could be placed on one spacer while other edge of pot could be placed on base (32) thereby tilting pot so that a minority of pot base is in direct contact with the warming base.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5, 9, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Box as applied to claims 1, 2, 6-8, and 11 above in paragraph 2, and further in view of Stasyshyn (US5196677).

Box discloses all of the recited subject matter except a spacer/wedge/tilting means with a rectangular outline from a top view, a wedge with an insignia, wedge thickness is less than an elevation of a pot retaining feature in warming surface, and selectively removing and cleaning spacer. Stasyshyn discloses a removable spacer (column 3, line 61-column 4, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the spacer of Box removable as disclosed by Stasyshyn because, a removeable spacer allows the spacer to be repositioned for a more uniform heating.

Box in view of Stasyshyn discloses all of the recited subject matter except a wedge which is rectangular from a top view, and an advertising insignia on the wedge. Changing the shape of the wedge and including an insignia is generally recognized as being within the level of ordinary skill in the art as evidenced by Stasyshyn in column 4, lines 48-56.

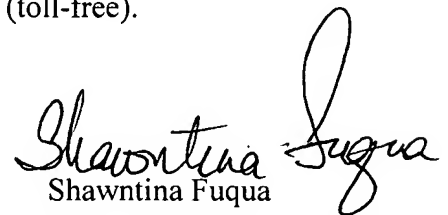
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawntina T. Fuqua whose telephone number is (571) 272-4779. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

stf
May 14, 2006


Shawntina Fuqua
Patent Examiner
Art Unit 3742